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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/059,077

04/09/1998

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12/08/2006

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EXAMINER

NGUYEN, LUONG TRUNG

ART UNIT

PAPER NUMBER

2622

DATE MAILED: 12/08/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/059,077
Filing Date: April 09, 1998
Appellant(s): JOHNSTON ET AL.

Robert E. Malm
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/03/2005 appealing from the Office action mailed 9/21/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

The examiner's earlier rejection of all 25 claims was the subject of Appeal No. 2000-1719.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

NEW GROUND(S) OF REJECTION

I. Whether claims 1-3, 5-6, 14, 18-19, 24 are unpatentable under 35 U. S. C. 103(a) in view of Klapper et al., Maruyama et al. and Chino.

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II. Whether claim 12 is unpatentable under 35 U.S.C. 103(a) in view of Klapper et al., Maruyama, Chino, Sergeant et al., and O'Farrill et al.

III. Whether claim 13 is unpatentable under 35 U.S.C. 103(a) in view of Klapper et al., Maruyama, Chino and Ohara et al.

IV. Whether claim 20 is unpatentable under 35 U.S.C. 103(a) in view of Klapper et al., Maruyama, Chino and Tovi.

V. Whether claim 23 is unpatentable under 35 U.S.C. 103(a) in view of Klapper et al., Maruyama, Chino and Boehle.

VI. Whether claim 25 is unpatentable under 35 U.S.C. 103(a) in view of Klapper et al., Maruyama, Chino and Kurijada.

VII. Whether claims 7 and 21 are unpatentable under 35 U. S. C. 112, second paragraph.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,729,016	Klapper et al.	3-1998
JP 08-116476	Maruyama et al.	5-1996
5,107,286	Sergeant et al.	4-1992
5,528,328	O'Farrill et al	6-1996
5,008,605	Ohara et al.	4-1991

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4,225,881	Tovi	9-1980
5,212,655	Boehle	5-1993
JP 08-160874	Chino	06-1996
JP 10-304339	Kujirada	11-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 7 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 7 and 21 contain the trademark/trade name "THULE" and "YAKIMA", respectively. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a type of roof rack, but fails to sufficiently claim the particular structure of the roof rack that would properly define the structural boundaries

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of the rack as a THULE or YAKIMA type and, accordingly, the identification/description is indefinite.

Claims 1-3, 5-6, 14, 18-19, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klapper et al. (US 5,729,016) in view of Maruyama (JP 08-116476) further in view of Chino (JP 08-160874).

Regarding claim 1, Klapper et al. discloses a mobile pan and tilt camera and display-control apparatus comprising:

a fully rotatable camera attached to a mount assembly 538/556 (see Fig. 3) that is mounted to a vehicle (via a roof rack 1014, Fig. 2) for capturing mobile images (night vision camera 1 is mounted to a moving vehicle 1010, Figure 1, Column 3, Lines 40-63; Column 4, Lines 52-67; Column 14, Lines 1-6);

an image capture box for receiving said captured images (display electronics 1040, Figure 1, Column 4, Lines 45-51).

Klapper et al. discloses a display having an image display screen (combiner 1030 included in a display unit, Figure 1, Column 4, Lines 5-21) and control buttons (remote control 566 which includes joystick 568, plurality of switches 572, Figure 1, Column 4, Lines 44-51) for controlling said camera and its movement; and said control box being attached to a mount in said vehicle within an operator's view and reach (remote control 566 is attached to a mount inside the vehicle within an operator's view and reach, Figure 1, Column 4, Lines 44-51. Klapper et al., further, discloses that the display unit can be mounted on the dashboard of the vehicle (see Column 4, Lines 15-20), i.e. the display unit can be located within the operator's view and reach).

Klapper et al. fails to specifically disclose a display-control box (i.e., the display and the control box are integrated in one box). However, Maruyama et al. teaches a VTR element 1, which includes liquid crystal display 5 and operation buttons 6 are integrated in casing 4, Figure 1, Paragraphs [0026] – [0029], Pages 18-20). The operation buttons 6 control functions of the remote camera 2 (Paragraph [0027]). Therefore, Maruyama et al. teaches to one of ordinary skill in the art the integration of camera controls and a camera display in a single compact unit.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Klapper al. by the teaching of Maruyama in order to allow a user in a vehicle to remotely operate a camera while viewing the images captured by the camera mounted outside the vehicle. The combined teaching of Klapper's dashboard mounted display and the integrated display/control box of Maruyama would have led one of ordinary skill in the art to combine the controls and display on the dashboard of a vehicle.

Klapper et al. and Maruyama fail to specifically disclose said display-control box being attached to an adjustable mount in said vehicle. However, Chino teaches a picture display monitor 1 is attached to dashboard 5 of a vehicle via a picture display monitor attaching means 2, direction pin 6, universal joint 4 and adapter plate 3, where the display monitor 1 can be adjustable in height adjustment direction and angle adjustment via universal joint 4 (Figures 1-3, Paragraphs [0015] – [0019], and see Abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Klapper et al. and Maruyama and by the teaching of Chino in order to allow a vehicle's operator to adjust the display in both a height adjustment

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direction and angle adjustment direction so as to permit the display and controls to be adjustable to the users' physical size and personal preferences.

Regarding claim 2, Klapper et al. discloses a full rotation is achieved by mounting said camera to a tilting mechanism mounted on a panning mechanism (camera pointing mechanism 500, which includes tilt gimbal 502, which is mounted on pan gimbal 534/536, Figures 2-3, Column 4, Lines 52-67).

Regarding claim 3, Klapper et al. discloses wherein said mount assembly incorporates a quick disconnect mechanism (Klapper et al. teach that the camera 1 and pointing mechanism 500 are bolted to an elongate center support 1014 (roof rack), which can be considered as a quick disconnect mechanism. Lacking any claimed structure or parameters defining the relative term "quick disconnect," the three bolt system taught by Klapper et al is seen to be a quick disconnect system.

Regarding claim 5, Klapper et al. discloses a water seal attached to said tilting mechanism (water-resistant case, Column 13, Lines 65-67).

Regarding claim 6, Klapper et al. discloses wherein said mount assembly is adapted to engage the roof-rack of a vehicle (Figures 1-2, Column 3, line 48- Column 4, Lines 5). Specifically, the camera mount 538/556 is bolted to roof rack cross member 1014.

Regarding claim 14, Klapper et al. discloses said camera may be mounted at any angle with respect to gravity (Figure 1).

Regarding claim 18, Maruyama discloses said display and control system have a set of control buttons positioned to be operated with a single hand (Figure 1, noted that when VTR 1 is attached to the dashboard of Klapper et al. via the adjustable mount taught by Chino, VTR 1, which includes display 5 and operation buttons, can be easily operated with a single hand).

Regarding claim 19, Chino discloses said display and control system have a viewing angle adjustment lever positioned to be operated with said single hand (Chino discloses that an angle adjustment and a height adjustment direction can be adjustable via lever 6, Figure 1, Paragraph [0016], and Abstract).

Regarding claim 24, Klapper et al. discloses said mount assembly includes an adapter plate for ship-board attachment (since Klapper et al. discloses a night vision camera 1101 mounted below the bridge of a marine vessel 1103, Figure 15, Column 13, Lines 40-59, an adapter plate for ship-board attachment is inherently included in the mount mechanism of the camera to attach the mount mechanism to the bridge of the marine vessel).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klapper et al. (US 5,729,016) in view of Maruyama (JP 08-116476) and Chino (JP 08-160874) further in view of Sergeant et al. (US 5,107,286) and O'Farrill et al. (US 5,528,328).

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Regarding claim 12, Klapper et al., Maruyama and Chino fail to specifically disclose a camera enclosure is sealed with an o-ring for moisture blocking. However, Sergeant et al. discloses a sealed camera housing 10, which includes "O" ring 22 (Figures 1-2, Column 3, Lines 18-32). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Klapper et al., Maruyama and Chino by the teaching of Sergeant et al. in order to protect a camera from damage by the environment within which it is placed (Column 1, Lines 8-10).

Klapper et al., Maruyama, Chino and Sergeant et al. fail to specifically disclose a camera enclosure with a bezel opening that is threaded to accept optical filters. However, O'Farrill et al teaches that it is old and well known in the art of cameras to have a camera with a lens wherein the distal end of the lens has an opening that is threaded (col. 1, lines 15-23 of O'Farrill) to accept optical filters. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Klapper et al., Maruyama, Chino and Sergeant et al. by the teaching of O'Farrill et al. in order to allow a user to exchange different types of desired filters in an easy and secure manner.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klapper et al. (US 5,729,016) in view of Maruyama (JP 08-116476) and Chino (JP 08-160874) further in view of Ohara et al. (US 5,008,605).

Regarding claim 13, Klapper et al., Maruyama and Chino fail to specifically disclose a Field of View (FOV) stabilized camera which provides an electronic compensation to overcome mechanical gear backlash and vibration. However, Ohara et al. discloses a camera has an

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electric driving device, which is capable of eliminating backlash (Column 1, Lines 7-14).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to achieve a precise operation without the influence of backlash (Column 1, Lines 43-45).

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klapper et al. (US 5,729,016) in view of Maruyama (JP 08-116476) and Chino (JP 08-160874) further in view of Tovi (US 4,225,881).

Regarding claim 20, Klapper et al., Maruyama and Chino fail to specifically disclose an optically clear or tinted sphere enclosing said camera. However, Tovi discloses a transparent globe 12, which contains camera 30 (Figure 2, Column 4, Line 63 – Column 5, Line 29).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Klapper et al., Maruyama and Chino by the teaching of Tovi in order to mask the camera from sight (column 5, lines 57-55). Doing so, it allows the images can be obtained without the need for a sophisticated and expensive low-light camera (Column 2, Lines 51-53).

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klapper et al. (US 5,729,016) in view of Maruyama (JP 08-116476) and Chino (JP 08-160874) further in view of Boehle (US 5,212,655).

Regarding claim 23, Klapper et al., Maruyama and Chino fail to specifically disclose said mount assembly is adaptable to a rail road locomotive attachment. However, Boehle discloses a

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video camera 6 mounted on a roof rack 24 of a vehicle 2, the vehicle 2 is moveable along a railroad track (Figures 2, 7, Column 4, Lines 42-50; Column 7, Lines 12-23). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Klapper et al., Maruyama and Chino by the teaching of Boehle in order to provide an improved clearance measurement system for measuring clearances at locations which are spaced apart along a path of movement (Column 3, Lines 55-58).

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klapper et al. (US 5,729,016) in view of Maruyama (JP 08-116476) and Chino (JP 08-160874) further in view of Kujirada (JP 10-304339).

Regarding claim 25, Klapper et al. discloses a process for viewing a scene with mobile pan or tilt camera of claim 1 comprising the steps of mounting said camera to a vehicle for capturing mobile images (night vision camera 1 is mounted on vehicle 1010, Figure 1, Column 3, Lines 40-47); displaying said images on an image display screen (combiner 1030, Figure 1, Column 4, Lines 10-15); controlling said camera position from within said vehicle (Column 4, Lines 44-51). And Maruyama discloses capturing said images in an image capture box for storage (VTR 1, Figure 1, Paragraphs [0009], [0026]).

Klapper et al. and Maruyama fail to specifically disclose transmission of said captured mobile images; and transmitting said captured mobile images by radio frequency transmission to a data storage server for further processing; and providing said captured mobile images on an internet server for official or consumer access. However, Kujirada discloses a vehicle video providing system and virtual vehicle traveling system, in which video data from each vehicle 3-5

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are transmitted through a radio communication network and an internet 1 to a video managing computer 2 (see Abstract, Figure 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Klapper, Maruyama et al. and Chino by the teaching of Kujirada in order to transmit video image to a remote location without using cable. This increases the capability of transmitting images to a remote location.

(10) Allowable Subject Matter

Claims 4, 8-11, 15-17, 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(11) Response to Arguments

In re page 21, Appellants argue that a “water-resistant case” is not “a water seal attached to the tilting mechanism,” and the references do not disclose the water seal of claim 5.

In response, regarding claim 5, Appellants recited limitation “a water seal attached said tilting mechanism.” The Examiner considers that claim 5 as recited still does not distinguish from Klapper et al., Maruyama et al. and Chino. Klapper et al. discloses camera 1104 uses a water-resistant case (a water seal is included in the water-resistant), and the camera 1104 is mounted by a positioning mechanism 1105, which provides tilting and panning mechanisms (Figure 16, Column 13, Line 65 – Column 14, Line 5).

In re page 23, Appellants argue that Klapper et al. does not disclose a camera having a mount assembly that is adapted to engage the roof-rack of a vehicle.

In response, regarding claim 6, Appellants recited limitation “wherein said mount assembly is adapted to engage the roof-rack of a vehicle.” The Examiner considers that Klapper et al. does disclose this limitation. Klapper et al. discloses camera 1 mounted on mounting mechanism 538/556, which is adapted to engage the mounting hardware 1012, which corresponds to a roof-rack of a vehicle (Figures 1-2, Column 3, Line 48- Column 4, Lines 5).

In re page 28, Appellants argues that there is nothing in Maruyama et al. to suggest that the control buttons are operable with one hand as claim 18 specifies.

In response, regarding claim 18, the Examiner considers that Maruyama et al. does disclose this limitation. Maruyama et al. discloses that a user can hold the display-control box with one hand (Paragraph [0037], Figures 57, 58, and 65). This indicates that the user can operate the control buttons with one hand.

In re page 32, Appellants argues that Klapper et al. does not disclose a mount assembly which includes an adapter plate for ship-board attachment, and Figure 15 of Klapper et al. does not show an adapter plate.

In response, regarding claim 24, the Examiner considers that Klapper et al. inherently discloses this feature. Since Klapper et al. discloses a night vision camera 1101 mounted below the bridge of a marine vessel 1103 (Figure 15, Column 13, Lines 40-59), an adapter plate for ship-board attachment is inherently included in the mount mechanism of the camera to attach the mount mechanism to the bridge of the marine vessel.

In re page 58, Appellants argue that the plain meaning of claim 20 is that the sphere in its entirely is optically clear or tinted, and Tovi does not disclose such a sphere.

In response, noted that the feature “the sphere in its entirety is optically clear or tinted” is not recited in claim 20 as Appellant is seemingly trying to assert. Instead, regarding claim 20, Appellants recite the limitation “an optically clear or tinted sphere enclosing said camera.” Tovi does disclose this feature. Tovi discloses a transparent globe 12, which contains camera 30 (Figure 2, Column 4, Line 63 – Column 5, Line 29). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(12) Related Proceeding(s) Appendix

Copies of the court or Board decision(s) identified in the Related Appeals and Interferences section of this examiner’s answer are provided herein.

For the above reasons, it is believed that the rejections should be sustained.

IMPORTANT NOTE:

This examiner’s answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one

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of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

A Technology Center Director or designee must personally approve the new ground(s) rejection set forth in section (9) above by signing below.

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Respectfully submitted,

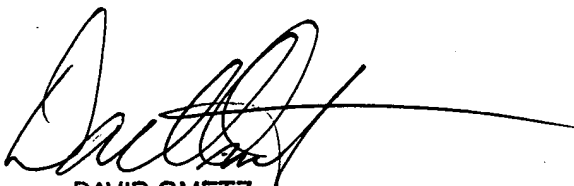
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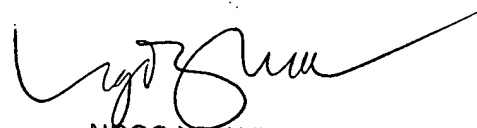
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